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8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 UNITED STATES OF AMERICA,
12

13 Plaintiff,

14 v.

15 RICHARD WHITTAKER,
16

17 Defendant.
18

Case No. 2:16-cr-00217- APG-EJY

**MOTION FOR LEAVE TO FILE
EXHIBITS IN SUPPORT OF
DEFENDANT FOR REVOCATION
HEARING UNDER SEAL
(ECF NO. 106)**

19 Richard Whittaker, through counsel, hereby moves the Court to order Dr. Sharon Jones-
20 Forrester medical reports and evaluations be filed under seal and remain under seal. LR IA 10-
21 5. The exhibits contain sensitive medical information, including mental health evaluations. Mr.
22 Whittaker's confidential and sensitive health information should not be available to the general
23 public. Therefore, it is respectfully requested that the exhibits be filed under seal. (ECF No.
24 106).
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2 **I. Legal Standard**

3 LR IA 10-5 governs sealed documents, proscribing that:

4 (a) Unless otherwise permitted by statute, rule, or prior court order, papers filed
5 with the court under seal must be accompanied by a motion for leave to file those
6 documents under seal. If papers are filed under seal under prior court order, the
7 papers must state on the first page, directly under the case number: “filed under
8 seal under court order (ecf no. ____).” all papers filed under seal will remain
9 sealed until the court either denies the motion to seal or enters an order unsealing
10 them.

11 In addition, the Ninth Circuit has addressed the standard required to obtain sealing of
12 judicial records, albeit in a different context. Regarding sealing or redaction of discovery for
13 non-dispositive filings, the Ninth Circuit recognized that the burden lies with the party seeking
14 sealing to demonstrate good cause. *Kamakana v. City & Cnty of Honolulu*, 447 F.3d 1172,
15 1180, 1186 (9th Cir. 2006) (Court affirmed magistrate judge’s decision where party failed to
16 “demonstrate any specific prejudice or harm.”) (internal citation omitted). Specifically, the
17 Ninth Circuit focused on the delineation between dispositive filings and non-dispositive filings.
18 The party seeking redaction or sealing of judicial records for non-dispositive filings must show
19 good cause – emphasizing the distinction in the required standard as dispositive filings and their
20 attachments require and non-dispositive filings. *Id.*

21 In line with LR IA 10-5, counsel submits this motion for leave to file the exhibits under
22 seal. Mr. Whittaker submits that good cause exists for this filing. Specifically, Mr. Whittaker’s
23 exhibits contain confidential personal medical information, including reference to diagnosis and
24 medical history. Such sensitive medical information should not be disclosed to the public.
25 Given the sensitive nature of these matters and other topics discussed in the motion, Mr.
26 Whittaker submits that he would suffer a specific prejudice or harm by the public filing of the
exhibits.

1 **II. Conclusion**

2 Mr. Whittaker respectfully requests Dr. Sharon Jones-Forrester's reports and
3 evaluations be filed under seal due to the sensitive nature of the information contained therein.
4 Specifically, the exhibits contain confidential and sensitive medical information and should be
5 protected. Furthermore, the exhibits include information about mental health evaluations that
6 should not be available to the public. Therefore, the exhibits should be filed under seal.

7 DATED: May 15, 2024

8 RENE L. VALLADARES
9 Federal Public Defender

10 /s/Jacquelyn N. Witt

11 JACQUELYN N. WITT
12 Assistant Federal Public Defender
13 Attorney for Richard Whittaker

14 **ORDER**

15 IT IS SO ORDERED.

16 
17
18 ANDREW P. GORDON
19 United States District Judge

20 DATED: May 16, 2024